

April 8, 2019

VIA ELECTRONIC FILING

Ms. Jocelyn G. Boyd, Esquire
Chief Clerk & Administrator
Public Service Commission of South Carolina
101 Executive Center Drive, Suite 100
Columbia, South Carolina 29210

**Re: Proceeding for Approval of the Public Utility Regulatory Policies Act
of 1978 (“PURPA”) Avoided Cost rates for Electric Companies
Docket No. 1995-1192-E**

Dear Ms. Boyd:

Duke Energy Carolinas, LLC and Duke Energy Progress, LLC (the “Companies” or “Duke”) respectfully submit this letter for consideration by the South Carolina Public Service Commission (“Commission”) in response to the Motion to Hold Docket in Abeyance and Suspend Prefiling Dates (“Motion”) filed on March 29, 2019 by the South Carolina Solar Business Alliance (“SCSBA”).

As background, on November 29, 2018, the Companies filed updated standard offer avoided cost rates, tariffs, and standard contracts and terms and conditions for purchases from certain qualifying facilities (“QF”), with the Commission for approval (collectively “Standard Offer Tariff Application”). As discussed in the Standard Offer Tariff Application, the Companies’ updated Schedule PP tariffs are available to QFs two megawatts (“MW”) or less and take into account recent significant declines in the Companies’ avoided costs since the Commission last approved the Companies’ standard offer avoided cost tariffs in 2016. The Companies Standard Offer Tariff Application also sets forth certain modifications to their standard offer contract rate designs and terms and conditions to ensure customers are not over-paying for QF power, as well as an integration services charge specific to solar QFs to recognize the increasing cost to operate the Companies’ dispatchable generating fleets as growing levels of variable and non-dispatchable solar capacity are added to the DEC and DEP systems.

Pursuant to Hearing Officer Directive No. 2019-6-H, Duke pre-filed direct testimony in support of the Standard Offer Tariff Application on February 1, 2019. The deadline for Intervenor testimony, originally due April 9, 2019, is currently held in abeyance, pursuant to Hearing Officer Directive No. 2019-47-H, pending the outcome of the Commission’s ruling on SCSBA’s Motion. The Hearing Officer Directive similarly suspended the evidentiary hearing previously scheduled by the Commission to begin on May 21, 2019, pending the outcome of the Commission’s ruling on SCSBA’s Motion.

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The sole basis for SCSBA's Motion is "uncertainty arising from" pending legislation, H.3659, which, if enacted, would require the Commission to open a proceeding to specifically review the Companies' standard offer avoided cost rates and contracts, as well as to take certain other actions, including reviewing the Companies' purchase contracts for larger QFs not eligible for the standard offer tariffs. Motion, at 1, 3. SCSBA asserts that passage of H.3659 would "effectively moot the results of the current proceeding" and that the Commission should not take further evidence or conduct a hearing on the Companies' Standard Offer Tariff Application until either H.3659 is either enacted into law or the 2019 legislative session concludes without its enactment. In light of this pending legislation, SCSBA requests that the Commission to suspend all deadlines for submittal of pre-filed testimony while the Commission considers the Motion and to hold this docket temporarily in abeyance either until H.3659 is enacted into law or for the remainder of the current legislative session.¹

As an initial matter, the Companies disagree with SCSBA's implicit suggestion that the Companies' Standard Offer Tariff Application is in any way inconsistent H.3659 in its current form. While this bill, if passed, would prescribe additional procedural requirements on the Commission's review of the Companies' standard offer avoided cost rates and contracts, it is ultimately for the Commission to decide whether the Standard Offer Tariff Application should be withdrawn and a completely new proceeding is needed to review the matters now pending in this docket, as well as other issues prescribed for Commission review in the pending legislation. Moreover, the Companies do not agree with SCSBA that it would not be "reasonable or prudent" for the Commission to receive further evidence in this proceeding prior to the potential passage of H.3659, especially in light of the "highly technical issues" that the Motion recognizes are at issue in this proceeding. Motion, at 1, 2. Finally, the Motion's reference to the "convenience of the parties" should be given little weight in light of the fact that the Companies' Standard Offer Tariff Application was filed with the Commission on November 29, 2018, and the Companies' pre-filed direct testimony was filed over two months ago.

The Companies are, however, sensitive to issues of judicial economy raised in the Motion. The Companies also recognize that passage of H.3659 would expand the scope of avoided cost issues required to be considered by the Commission in the near future, and, if enacted, the Commission may wish to hear from interested parties regarding the most appropriate procedural path forward for the Commission to comply with the requirements of this new legislation.

In light of the foregoing, the Companies' position on the relief requested in the Motion is as follows:

- 1) The Companies do not oppose SCSBA's request to temporarily hold this docket in abeyance and to suspend re-scheduling the evidentiary hearing to consider the Companies' Standard Offer Tariff Application until the earlier of the date that H.3659 is either enacted into law or the current legislative session ends. The docket should remain open and the Standard Offer Tariff Application should remain pending before the Commission during this limited period.

¹ The 2019 session of the General Assembly is currently scheduled to conclude on May 9, 2019.

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- 2) If the 2019 legislative session ends and H.3659 is not enacted into law, the pre-filed direct testimony and exhibits of intervenors should be due no later than 10 days after the date the legislative session ends,² with rebuttal and surrebuttal testimony being due within the same number of days originally set forth in Hearing Officer Directive No. 2019-6-H, and an evidentiary hearing to be scheduled at the earliest convenience of the Commission.
- 3) If H.3659 is enacted into law, the Companies support the Commission's continued consideration of the Standard Tariff Offer Application in the current docket or, if preferred by the Commission, consolidating the current docket with a new docket opened to consider all avoided cost issues prescribed for Commission approval in H.3659. Subject to the Commission issuing an Order further suspending this proceeding to hear from interested parties, as discussed in (4) below, the Companies see no reason to delay the Commission's consideration of the Standard Offer Tariff Application (as described in (2) above).
- 4) If H.3659 is enacted into law and the Commission elects to hear from the parties regarding the most appropriate procedural path forward to comply with the requirements of this new legislation, the Companies reserve their rights to modify their position in light of future changes to the pending legislation or other circumstances.
- 5) A Commission Order temporarily holding the current docket in abeyance should not be precedential to other dockets and other pending legislation in the future.

In conclusion, the Companies do not oppose granting limited relief presented in SCSBA's Motion, subject to the foregoing conditions, and the Companies' interest in expeditiously resuming this proceeding upon either the conclusion of the current legislative session or H.3659 being enacted into law. The Companies also reiterate that a Commission Order temporarily holding the current docket in abeyance should not be precedential to other dockets and other pending legislation in the future.

Sincerely,



Rebecca J. Dulin

cc: Parties of record

² The Companies believe that 10 days is an appropriate amount of time, given that, as of the date of this filing, Intervenor have been provided over two months to prepare their direct testimony, and that the SCSBA Motion was filed 11 days prior to the due date of Intervenor direct testimony.